

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X

GLOBALFOUNDRIES U.S. INC.,

Plaintiff,

ORDER

-against-

23-cv-3348 (KMK) (AEK)

INTERNATIONAL BUSINESS MACHINES
CORPORATION,

Defendant.

-----X

THE HONORABLE ANDREW E. KRAUSE, U.S.M.J.

Non-party Intel Corporation (“Intel”) has filed a letter motion seeking to have certain redactions made to the transcript of the March 7, 2024 court conference on the ground that Intel would suffer competitive harm if the information in question was made public. ECF No. 302. When making such a motion, the moving party has the “burden to establish, *through competent evidence*, that the transcript excerpts reveal trade secrets or other confidential business information, the disclosure of which would cause clearly defined and serious harm Often, courts require such showings to be made in the form of affidavits.” *In re Document Techs. Litig.*, 282 F. Supp. 3d 743, 747 (S.D.N.Y. 2017) (emphasis added) (cleaned up).

Indeed, Intel appears to have recognized the potential need for a supplemental filing—in the letter motion, Intel stated that “[t]o the extent this Court would benefit from a sealed evidentiary showing of the competitive harm Intel would suffer from the publication of the proposed redactions, we request opportunity to provide as much before the transcript is made public.” ECF No. 302 at 3.

Having reviewed the submissions in connection with the motion, the Court concludes that further information is required before any redaction of the March 7 transcript could be ordered.

Accordingly, by no later than April 10, 2024, Intel must file, under seal, an affidavit setting forth the competitive harm that Intel would suffer from the publication of the proposed redactions. GlobalFoundries may (but is not required to) file a response under seal by no later than April 15, 2024.

Dated: April 5, 2024
White Plains, New York

SO ORDERED.



ANDREW E. KRAUSE
United States Magistrate Judge